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JUDICIAL FINE IN TURKISH CRIMINAL LAW

Murat AYDIN and Yusuf DENIZ
SELÇUK UNIVERSITY/FACULTY OF LAW, TURKEY

Abstract

Criminal acts are punished by imprisonment and judicial fine in Turkish Criminal Code. Judicial fine is arranged in Turkish Criminal Code article 52. Criminal courts decide this fine. Because of this features judicial fines are the institution of criminal law. In Turkish Criminal Law System judicial fine is calculated as a day. Execution of judicial fines is arranged in The Law On The Execution Of Penalties And Security Measures (Code Number 5275) article 106

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1. JUDICIAL FINE AND CALCULATION

Criminal acts are punished by imprisonment and judicial fine in Turkish Criminal Code. Judicial fine is arranged in Turkish Criminal Code article 52. Criminal courts decide this fine. Because of this features judicial fines are the institution of criminal law. In Turkish Criminal Law System judicial fine is calculated as a day.

According to Turkish Criminal Code article 52:

“ (1) Judicial fine is an amount payable to the State Treasury and is calculated by multiplying the full number of days subject to penalty with the amount fixed for per day. The quantified days may not be less than five and more than seven hundred thirty days unless otherwise is provided in the law.

(2) The amount of judicial fine which is determined as at least twenty, at most hundred Turkish Lira per day is assessed in consideration of the private and economic conditions of the person.

(3) It is a basic rule to indicate the quantified full days and the amount fixed for one day separately in the decision.

(4) The Judge may grant respite period not exceeding one year as of the finalization date of judgment seeking payment of judicial fine in consideration of private and economic conditions of the person subject to penalty. Payment of this fine in installments may also be adjudicated in the decision. However, the installment period may not exceed two years and the amount is payable at most in four installments. The decision should also contain a statement requesting collection of the remaining portion of the fine if failed to pay any one of the installments, and

also a warning notifying conversion of judicial fine to punishment of imprisonment in case of such failure”.

2. EXECUTION OF JUDICIAL FINES

Execution of judicial fines is arranged in The Law On The Execution Of Penalties And Security Measures (Code Number 5275) article 106. According to this article:

“(1) A judicial fine means the payment to the State Treasury of a certain amount of money determined in accordance with the procedure in the first paragraph of Article 52 of the Turkish Criminal Code.

(2) The finalised judgement ordering a fine shall be delivered to the office of chief public prosecutor, who shall serve an order on the convicted person under the third paragraph of Article 20 for the payment of the fine within thirty days.

(3) If the convicted person fails to pay the judicial fine within the specified period following service of the payment order upon him, public prosecutor decide to conversion of day money up to the amount paid from part imprisonment and run a public beneficial work including provision for prisoners to work two hours a day. Daily working time is defined to be at least two hours and up to eight hours by the Probation Office. In case of offender doesn't comply the obligations, his punishment is carried out in open prisons, but as the days worked will be deducted.

(4) If the judicial fine is not paid by the children it can not be commuted to prison.

(5) Even if the court judgement does not state that the judicial fine is convertible to imprisonment, the office of chief public prosecutor shall apply the third paragraph above.

(6) Where the court judgement does not specify any instalments for the payment of the judicial fine, if the convicted person has paid one third of the fine within the period of one month, permission shall be granted at his request for the balance of the fine to be paid in two equal monthly instalments. If the first instalment is not paid in due time, the permission shall become null and void.

(7) The period of imprisonment in lieu of a judicial fine shall not exceed three years. In the event of being sentenced to judicial fines under several court judgements, the maximum period shall be five years.

(8) The convicted person shall be released if he pays the amount corresponding to the number of days not yet served in prison.

(9) The execution of a prison term converted from a judicial fine shall not be postponed and shall not be subject to the provisions of conditional release. Judicial fine has been converted into a prison term, the former shall be considered with regard to the deprivation of rights.

(10) Abolished

(11) If the duration of the prison term served does not fully meet the amount of the judicial fine, the court judgement shall be delivered by the office of chief public prosecutor to the highest treasury officer of the place for the balance of the fine to be collected. The treasury officer shall collect the said balance in accordance with Law No. 6183 Concerning the Procedure for the Collection of Public Receivables.